

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOHN C. KNAUS,

Plaintiff,

v.

Case No. 12-C-1082

TOWN OF LEDGEVIEW et al.,

Defendants.

**ORDER GRANTING IFP ON APPEAL AND INDICATION OF
INTENT TO GRANT MOTION TO VACATE PURSUANT TO FRAP 12.1**

On October 30, 2012, the Court dismissed the above action at the screening stage for failure to state a claim. Specifically, the Court noted that much of the case had been before the Court back in 2010 and was dismissed at that time. The plaintiff did not appeal and, thus, it appeared *res judicata* barred further action. Plaintiff also includes in the instant complaint, however, an allegations concerning a later proceeding in which the Town issued an order to raze his home. He prevailed in state court but alleged that the Town officials were motivated by an animus toward him. The Court nevertheless dismissed the action based on the exclusive remedy provision of the state statute. Plaintiff now has filed a Notice of Appeal and seeks to proceed on appeal *in forma pauperis*.

Having previously determined that Plaintiff was indigent and could not pay the filing, the Court continues that finding and concludes that plaintiff is indigent and is entitled to proceed on appeal *in forma pauperis*. The Court further notes, however, that upon further review of the complaint and attachments, it may have erred in dismissing plaintiff's action at the screening stage.

The allegations may be sufficient, when considered with the attachments, to state a class of one equal protection claim against several of the defendants. *See Del Marcelle v. Brown County Corp.*, 680 F.3d 887 (7th Cir. 2012)(en banc). Accordingly, and pursuant to Rule 12.1 (b) of the Federal Rules of Appellate Procedure, the Court hereby indicates that it would sua sponte grant a motion for reconsideration or to vacate the previous order if the case were remanded by the Court of Appeals.

SO ORDERED this 28th day of November, 2012.

s/ William C. Griesbach
William C. Griesbach
United States District Judge